

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

HITACHI MAXELL, LTD.

Plaintiff,

v.

TOP VICTORY ELECTRONICS (TAIWAN)
CO. LTD., TPV INT'L (USA), INC.,
ENVISION PERIPHERALS, INC., TOP
VICTORY ELECTRONICS (FUJIAN) CO.
LTD., TPV ELECTRONICS (FUJIAN) CO.
LTD., TPV TECHNOLOGY LTD., AND TPV
DISPLAY TECHNOLOGY (XIAMEN) CO.,
LTD.

Defendants;

CIVIL ACTION NO. 2:14-cv-1121-JRG-RSP

JURY

HITACHI MAXELL, LTD.'S ANSWER TO TPV DEFENDANTS' COUNTERCLAIMS

Plaintiff, Hitachi Maxell, Ltd. (“Hitachi Maxell”) submits its Answer to the Counterclaims filed by Defendants Top Victory Electronics (Taiwan) Co., Ltd.; TPV International (USA), Inc.; Envision Peripherals, Inc.; Top Victory Electronics (Fujian) Co., Ltd.; TPV Electronics (Fujian) Co., Ltd.; TPV Technology, Ltd.; and TPV Display Technology (Xiamen) Co., Ltd. (collectively, “TPV”) in their Answer to Complaint, Affirmative Defenses, and Counterclaims of June 29, 2015 [Doc. 36] (hereafter “Answer” or “Counterclaims”).

TPV'S AFFIRMATIVE DEFENSES

82. Hitachi Maxell denies the allegations in Paragraph 82 of TPV's Answer.
83. Hitachi Maxell denies the allegations in Paragraph 83 of TPV's Answer.
84. Hitachi Maxell denies the allegations in Paragraph 84 of TPV's Answer.

85. Hitachi Maxell denies the allegations in Paragraph 85 of TPV's Answer.
86. Hitachi Maxell denies the allegations in Paragraph 86 of TPV's Answer.
87. Hitachi Maxell denies the allegations in Paragraph 87 of TPV's Answer.
88. Hitachi Maxell denies the allegations in Paragraph 88 of TPV's Answer.
89. Hitachi Maxell denies the allegations in Paragraph 89 of TPV's Answer.
90. Hitachi Maxell denies the allegations in Paragraph 90 of TPV's Answer.
91. Hitachi Maxell denies the allegations in Paragraph 91 of TPV's Answer.
92. Hitachi Maxell denies the allegations in Paragraph 92 of TPV's Answer.

TPV'S COUNTERCLAIMS FOR DECLARATORY JUDGMENT

93. Hitachi Maxell admits that TPV's Counterclaims allege the statements in the paragraphs following Paragraph 93. Hitachi Maxell denies any remaining allegations in this paragraph.

BACKGROUND

94. Admitted.

THE PARTIES

95. Upon information and belief, Hitachi Maxell admits the allegations in Paragraph 95 of TPV's Counterclaims.

96. Upon information and belief, Hitachi Maxell admits the allegations in Paragraph 96 of TPV's Counterclaims.

97. Upon information and belief, Hitachi Maxell admits the allegations in Paragraph 97 of TPV's Counterclaims.

98. Upon information and belief, Hitachi Maxell admits the allegations in Paragraph 98 of TPV's Counterclaims.

99. Upon information and belief, Hitachi Maxell admits the allegations in Paragraph 99 of TPV's Counterclaims.

100. Upon information and belief, Hitachi Maxell admits that TPV Technology Ltd. is a corporation organized under the laws of Bermuda with its principal place of business in Kowloon, Hong Kong. Hitachi Maxell is without information sufficient to admit the remaining allegations of Paragraph 100 of TPV's Counterclaims and therefore denies them.

101. Upon information and belief, Hitachi Maxell admits the allegations in Paragraph 101 of TPV's Counterclaims.

102. Admitted.

JURISDICTION AND VENUE

103. With respect to Paragraph 103 of TPV's Counterclaims, Hitachi Maxell admits that TPV purports to bring counterclaims under the Declaratory Judgment Act and the U.S. patent laws. Hitachi Maxell admits that the Court possesses subject matter jurisdiction over TPV's counterclaims.

104. Hitachi Maxell admits that by filing its Complaint, Hitachi Maxell has consented to the personal jurisdiction of this Court. Hitachi Maxell denies any other allegations implied in Paragraph 104.

105. With respect to Paragraph 105 of TPV's Counterclaims, Hitachi Maxell admits that venue is proper in the Eastern District of Texas. Hitachi Maxell denies any other allegations implied in Paragraph 105.

COUNTERCLAIM I

Declaratory Judgment of Non-Infringement of the '995 Patent

106. With respect to Paragraph 106 of TPV's Counterclaims, Hitachi Maxell admits that an actual controversy exists. Hitachi Maxell denies any other allegation implied in Paragraph 106.

107. Hitachi Maxell admits that TPV is seeking a judicial declaration that it has not infringed and does not infringe any valid claim of the '995 patent. Hitachi Maxell denies the remaining allegations of Paragraph 107.

108. Denied.

COUNTERCLAIM II

Declaratory Judgment of Non-Infringement of the '713 Patent

109. With respect to Paragraph 109 of TPV's Counterclaims, Hitachi Maxell admits that an actual controversy exists. Hitachi Maxell denies any other allegation implied in Paragraph 109.

110. Hitachi Maxell admits that TPV is seeking a judicial declaration that it has not infringed and does not infringe any valid claim of the '713 patent. Hitachi Maxell denies the remaining allegations of Paragraph 110.

111. Denied.

COUNTERCLAIM III

Declaratory Judgment of Non-Infringement of the '412 Patent

112. With respect to Paragraph 112 of TPV's Counterclaims, Hitachi Maxell admits that an actual controversy exists. Hitachi Maxell denies any other allegation implied in Paragraph 112.

113. Hitachi Maxell admits that TPV is seeking a judicial declaration that it has not infringed and does not infringe any valid claim of the '412 patent. Hitachi Maxell denies the remaining allegations of Paragraph 113.

114. Denied.

COUNTERCLAIM IV

Declaratory Judgment of Non-Infringement of the '375 Patent

115. With respect to Paragraph 115 of TPV's Counterclaims, Hitachi Maxell admits that an actual controversy exists. Hitachi Maxell denies any other allegation implied in Paragraph 115.

116. Hitachi Maxell admits that TPV is seeking a judicial declaration that it has not infringed and does not infringe any valid claim of the '375 patent. Hitachi Maxell denies the remaining allegations of Paragraph 116.

117. Denied.

COUNTERCLAIM V

Declaratory Judgment of Non-Infringement of the '366 Patent

118. With respect to Paragraph 118 of TPV's Counterclaims, Hitachi Maxell admits that an actual controversy exists. Hitachi Maxell denies any other allegation implied in Paragraph 118.

119. Hitachi Maxell admits that TPV is seeking a judicial declaration that it has not infringed and does not infringe any valid claim of the '366 patent. Hitachi Maxell denies the remaining allegations of Paragraph 119.

120. Denied.

COUNTERCLAIM VI

Declaratory Judgment of Non-Infringement of the '197 Patent

121. Hitachi Maxell admits that a justiciable controversy exists and that the Court possesses subject matter jurisdiction over TPV's counterclaims. Hitachi Maxell denies any remaining allegations of Paragraph 121.

122. Hitachi Maxell admits that TPV is seeking a judicial declaration that it has not infringed and does not infringe any valid claim of the '197 patent. Hitachi Maxell denies the remaining allegations of Paragraph 122.

123. Denied.

COUNTERCLAIM VII

Declaratory Judgment of Invalidity of the '995 Patent

124. With respect to Paragraph 124 of TPV's Counterclaims, Hitachi Maxell admits that an actual controversy exists. Hitachi Maxell denies any other allegation implied in Paragraph 124.

125. Hitachi Maxell admits that TPV is seeking a judicial declaration that the claims of the '995 patent are invalid. Hitachi Maxell denies the remaining allegations of Paragraph 125.

126. Denied.

COUNTERCLAIM VIII

Declaratory Judgment of Invalidity of the '713 Patent

127. With respect to Paragraph 127 of TPV's Counterclaims, Hitachi Maxell admits that an actual controversy exists. Hitachi Maxell denies any other allegation implied in Paragraph 127.

128. Hitachi Maxell admits that TPV is seeking a judicial declaration that the claims of the '713 patent are invalid. Hitachi Maxell denies the remaining allegations of Paragraph 128.

129. Denied.

COUNTERCLAIM IX

Declaratory Judgment of Invalidity of the '412 Patent

130. With respect to Paragraph 130 of TPV's Counterclaims, Hitachi Maxell admits that an actual controversy exists. Hitachi Maxell denies any other allegation implied in Paragraph 130.

131. Hitachi Maxell admits that TPV is seeking a judicial declaration that the claims of the '412 patent are invalid. Hitachi Maxell denies the remaining allegations of Paragraph 131.

132. Denied.

COUNTERCLAIM X

Declaratory Judgment of Invalidity of the '375 Patent

133. With respect to Paragraph 133 of TPV's Counterclaims, Hitachi Maxell admits that an actual controversy exists. Hitachi Maxell denies any other allegation implied in Paragraph 133.

134. Hitachi Maxell admits that TPV is seeking a judicial declaration that the claims of the '375 patent are invalid. Hitachi Maxell denies the remaining allegations of Paragraph 134.

135. Denied.

COUNTERCLAIM XI
Declaratory Judgment of Invalidity of the '366 Patent

136. With respect to Paragraph 136 of TPV's Counterclaims, Hitachi Maxell admits that an actual controversy exists. Hitachi Maxell denies any other allegation implied in Paragraph 136.

137. Hitachi Maxell admits that TPV is seeking a judicial declaration that the claims of the '366 patent are invalid. Hitachi Maxell denies the remaining allegations of Paragraph 137.

138. Denied.

COUNTERCLAIM XII
Declaratory Judgment of Invalidity of the '197 Patent

139. With respect to Paragraph 139 of TPV's Counterclaims, Hitachi Maxell admits that an actual controversy exists. Hitachi Maxell denies any other allegation implied in Paragraph 139.

140. Hitachi Maxell admits that TPV is seeking a judicial declaration that the claims of the '197 patent are invalid. Hitachi Maxell denies the remaining allegations of Paragraph 140.

141. Denied.

PRAYER FOR RELIEF

In response to TPV's Prayer for Relief following Paragraph 141, Hitachi Maxell denies that TPV is entitled to any relief, and Hitachi Maxell prays for judgment against TPV as follows:

- A. Entry of judgment in favor of Hitachi Maxell and against TPV on Hitachi Maxell's Complaint, and an award of the relief sought in the Complaint;
- B. Dismissal of TPV's Counterclaims against Hitachi Maxell with prejudice;
- C. Entry of Judgment in favor of Hitachi Maxell on TPV's Counterclaims;

- D. An award to Hitachi Maxell of attorneys fees, costs, and expenses; and
- E. Such other, further, or different relief as this Court may deem just and proper.

Dated: July 20, 2015

Respectfully submitted,

/s/ Jeffrey B. Plies

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, the foregoing document was served on all counsel who have consented to electronic service, Local Rule CV-5(a)(3)(A), on July 20, 2015.

/s/ Jeffrey B. Plies
Jeffrey B. Plies